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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DEC 12 2012
at 10 o'clock and 05 min. A.M.
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SONYA ADAMS, TIANA AHUE,
LANCE AIMOTO, JEAN-THIERRY
ALEMAN, ANTHONY ALTOMARE,
JENNIFER ALTOMARE, KURRY
ARAKI, JOSEPH AU, ERWIN V.
BARAYUGA, WILLIAM B.
BATALON, ALEX BERARDO,
MATTHEW BISE, KEAVY
BRENNAN, FLOYD J. CASTELLANO,
SHIRLEY ANN CAZINHA, DIANA P.
CHUN, KELLY DESHA, DARCEL
DIZON, KENNETH FARIA, MARIO
FUENTES, HOWARD FUJIMOTO,
JANSEN FUKUDA, JANE L.
GREENWOOD, FRANKLIN
GREGORIO, NATASHA HEE,
KITMING HO, JONATHAN HONG,
GUSTAVO HWUNAN, BRANDEN M.
IGE, JEFF JACOBSON, JUDY
KAKAZU, JOHN KANAULU, JR., YU
SUNG KIM, YVONNE
KINERNEY-AUSTIN, RICH KING,
SCOTT E. KIRLEY, ALVIN
KURIHARA, JON KUROSU, JON

CIVIL NO. **CV12 00667 LEKBMK**

(Other Civil Action -FLSA)

COMPLAINT; JURY DEMAND;
EXHIBITS 1-71

KUSANO, MAILE LAMBETH,
STEVEN LEE, LEE L. LENATANKO,
HOPE ANN YOUNGBLOOD LEWIS,
CHRISTINE LUAN, JOHN LYDEN,
ANGELA MARUMOTO, TED
MASUDA, IAN S. MCCAULLEY,
THERESA MCGREGOR, MOLLY
MCGUIRE, SEAN MCGUIRE, LUIS
M. MELENDEZ, KIMBERLY
MIYASATO, MARK MOCHIDA,
JOHN E. MOSLANDER, GARY L.
MUNIZ, CHRISTOPHER C. NICHOLS,
ROCHEL ORTIZ, NICOLE OTA,
CHRISTOPHER K. PIDOT, JUSTIN
SANTIAGO, DEAN R. SCHILD,
KA'OHUOKA'ALA SETO,
KALEOLANI SOUZA, CHESTER
SUKEKANE, SHAUN K.
TAKESHITA, LANDON TOSHI,
ALISA A. TUI, K. A. PUANANI
TUULIMA, GREGORY WONG,
SPENCER YAMAMOTO, DONALD
YATA, and JANE DOES AND JOHN
ROES 1-250,

Plaintiffs,

v.

CITY AND COUNTY OF
HONOLULU,

Defendant.

COMPLAINT

Plaintiffs SONYA ADAMS, TIANA AHUE, LANCE AIMOTO,
JEAN-THIERRY ALEMAN, ANTHONY ALTOMARE, JENNIFER
ALTOMARE, KURRY ARAKI, JOSEPH AU, ERWIN V. BARAYUGA,
WILLIAM B. BATALON, ALEX BERARDO, MATTHEW BISE, KEAVY
BRENNAN, FLOYD J. CASTELLANO, SHIRLEY ANN CAZINHA, DIANA P.
CHUN, KELLY DESHA, DARCEL DIZON, KENNETH FARIA, MARIO
FUENTES, HOWARD FUJIMOTO, JANSEN FUKUDA, JANE L.
GREENWOOD, FRANKLIN GREGORIO, NATASHA HEE, KITMING HO,
JONATHAN HONG, GUSTAVO HWUNAN, BRANDEN M. IGE, JEFF
JACOBSON, JUDY KAKAZU, JOHN KANAULU, JR., YU SUNG KIM,
YVONNE KINERNEY-AUSTIN, RICH KING, SCOTT E. KIRLEY, ALVIN
KURIHARA, JON KUROSU, JON KUSANO, MAILE LAMBETH, STEVEN
LEE, LEE L. LENATANKO, HOPE ANN YOUNGBLOOD LEWIS,
CHRISTINE LUAN, JOHN LYDEN, ANGELA MARUMOTO, TED MASUDA,
IAN S. MCCAULLEY, THERESA MCGREGOR, MOLLY MCGUIRE, SEAN
MCGUIRE, LUIS M. MELENDEZ, KIMBERLY MIYASATO, MARK
MOCHIDA, JOHN E. MOSLANDER, GARY L. MUNIZ, CHRISTOPHER C.
NICHOLS, ROCHEL ORTIZ, NICOLE OTA, CHRISTOPHER K. PIDOT,

JUSTIN SANTIAGO, DEAN R. SCHILD, KA'OHUOKA'ALA SETO,
KALEOLANI SOUZA, CHESTER SUKEKANE, SHAUN K. TAKESHITA,
LANDON TOSHI, ALISA A. TUI, K. A. PUANANI TUULIMA, GREGORY
WONG, SPENCER YAMAMOTO, DONALD YATA, and JANE DOES AND
JOHN ROES 1-250 (hereinafter referred to collectively as "Plaintiffs"), by and
through their attorney, CARL M. VARADY, for their Complaint against the City
and County of Honolulu, allege:

JURISDICTION AND VENUE

1. Jurisdiction is conferred upon this court by 28 U.S.C. § 1331 and 29 U.S.C. §216(b).
2. Venue is proper in this court as all the claims arose in the District of Hawai'i.
3. The claims are maintained as a collective action under, and pursuant to, the Fair Labor Standards Act (hereinafter "FLSA") 29 U.S.C. §216(b), on behalf of all other similarly situated persons, that is, all persons employed by Defendant City and County of Honolulu ("Defendant") as Emergency Management Technicians ("EMTs") and "Paramedics."
4. Plaintiffs allege that Defendant has repeatedly, knowingly and wilfully denied Plaintiffs overtime payment required by federal wage-hour law.

PARTIES

5. Lead Plaintiff SONYA ADAMS is, and at all times relevant to this action was, a resident of the City and County of Honolulu, State of Hawai'i, employed as a Paramedic. Ms. Adams has undertaken to obtain the written consent of the other plaintiffs who join in this collective action. Plaintiff brings her claim under the FLSA as a collective action under 29 U.S.C. § 216(b) on behalf of herself and all others similarly situated, namely: all persons who were employed by Defendant as EMTs and/or Paramedics during the three years preceding the filing of this Complaint, and who were improperly denied overtime payments for work in excess of the 40-hour work week.

6. Based on Defendant's violation of the overtime wage provision of the FLSA, Plaintiff's claim is properly brought and maintained as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) of the FLSA, because Plaintiff's claims are similar to the claims of the Class members. Plaintiff and the opt-in Class members identified below are similarly situated, as they had substantially similar job requirements and were subject to a common practice, policy or plan that required them to perform work without overtime compensation.

7. Opt-in Plaintiffs TIANA AHUE, LANCE AIMOTO, JEAN-THIERRY ALEMAN, ANTHONY ALTOMARE, JENNIFER

ALTOMARE, KURRY ARAKI, JOSEPH AU, ERWIN V. BARAYUGA,
WILLIAM B. BATALON, ALEX BERARDO, MATTHEW BISE, KEAVY
BRENNAN, FLOYD J. CASTELLANO, SHIRLEY ANN CAZINHA, DIANA P.
CHUN, KELLY DESHA, DARCEL DIZON, KENNETH FARIA, MARIO
FUENTES, HOWARD FUJIMOTO, JANSEN FUKUDA, JANE L.
GREENWOOD, FRANKLIN GREGORIO, NATASHA HEE, KITMING HO,
JONATHAN HONG, GUSTAVO HWUNAN, BRANDEN M. IGE, JEFF
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YVONNE KINERNEY-AUSTIN, RICH KING, SCOTT E. KIRLEY, ALVIN
KURIHARA, JON KUROSU, JON KUSANO, MAILE LAMBETH, STEVEN
LEE, LEE L. LENATANKO, HOPE ANN YOUNGBLOOD LEWIS,
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MCGUIRE, LUIS M. MELENDEZ, KIMBERLY MIYASATO, MARK
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NICHOLS, ROCHEL ORTIZ, NICOLE OTA, CHRISTOPHER K. PIDOT,
JUSTIN SANTIAGO, DEAN R. SCHILD, KA'OHUOKA'ALA SETO,
KALEOLANI SOUZA, CHESTER SUKEKANE, SHAUN K. TAKESHITA,
LANDON TOSHI, ALISA A. TUI, K. A. PUANANI TUULIMA, GREGORY

WONG, SPENCER YAMAMOTO, DONALD YATA, and JANE DOES and JOHN ROES 1-250, are, and at all times relevant to this action were, residents of the City and County of Honolulu, State of Hawai'i, employed as EMTs and/or Paramedics by the Defendant.

8. Plaintiffs have consented to join this action. See Exhibits 1-71.

9. Defendant City and County of Honolulu is, and at all times pertinent herein was, a body politic organized under the laws of the State of Hawai'i.

10. Defendant City and County of Honolulu is, and at all times pertinent herein was, a public agency within the meaning of 29 U.S.C. § 203(x).

11. Defendant City and County of Honolulu is, and at all times pertinent herein was, engaged in related activities performed through unified operation or common control for a common business purpose in conjunction with the activities of a public agency. Defendant City and County of Honolulu is, and at all times pertinent herein was, an enterprise within the meaning of 29 U.S.C. §203(r).

12. Defendant City and County of Honolulu is, and at all times pertinent herein was, an enterprise engaged in commerce or the production of goods for commerce within the meaning of 29 U.S.C. §203(s).

FIRST CLAIM FOR RELIEF
(VIOLATION OF FAIR LABOR STANDARDS ACT)

13. Plaintiffs incorporate the allegations in the paragraphs above.

14. Plaintiffs must be paid overtime based on a 40-hour work week. Plaintiffs perform mostly medical services and work related to medical services, do not have "responsibility to engage in fire suppression" as set forth in 29 U.S.C. § 203(y), and are medical personnel, not firefighters. Plaintiffs are not within the 40-hour work week exemption pursuant to 29 U.S.C. § 207(k).

15. Plaintiffs regularly worked substantial overtime hours (*i.e.*, over 40 in a work-week) but Defendant has not paid them the overtime wages they are owed.

16. Defendant City and County of Honolulu has knowingly and willfully violated, and is knowingly and willfully violating, the overtime compensation requirements of 29 U.S.C. §207, by employing Plaintiffs and other similarly situated employees in an enterprise engaged in commerce or in the production of goods for commerce, for work weeks longer than the applicable maximum weekly hours established by 29 U.S.C. § 207, without compensating them for their employment in excess of the above-described hours at rates not less than one and one-half times their regular rates of pay.

SECOND CLAIM FOR RELIEF
(VIOLATION OF FAIR LABOR STANDARDS ACT)

17. Plaintiffs incorporate the allegations set forth in the paragraphs above.

18. Defendant City and County of Honolulu has knowingly and willfully violated, and is knowingly and willfully violating, the overtime compensation requirements of 29 U.S.C. § 207, and the Rules and Regulations promulgated thereunder, by knowingly and willfully failing to make timely payments for hours worked in excess of the 40-hour work week at rates not less than one and one-half times their regular rates of pay to Plaintiffs and other similarly-situated employees.

WHEREFORE, Plaintiffs demand:

1. That the Court permit this action to proceed as a collective action under 29 U.S.C. § 216(b);
2. That the Defendant be enjoined from continuing the unlawful practices described herein;
3. That Defendant be required to pay the Plaintiffs and all other similarly situated employees unpaid overtime compensation found due by the court as a result of Defendant's violation of 29 U.S.C. § 207 of the FLSA, plus an additional equal amount as liquidated damages;

4. That Defendant be required to pay to the Plaintiffs and all other similarly situated employees an amount equal to the overtime compensation found to be unlawfully delayed or deferred in violation of 29 U.S.C. § 207 of the FLSA, plus an additional equal amount as liquidated damages;

5. That Defendant be required to pay to the Plaintiffs and all other similarly situated employees any retirement benefits owed as a result of violations of 29 U.S.C. § 207 of the FLSA, plus an additional equal amount as liquidated damages;


6. That Defendant be required to pay Plaintiffs' reasonable attorney's fees, costs of this action and both prejudgment and post-judgment interest; and

7. That Plaintiffs have such further relief as is just and necessary.

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury for all issues so triable.

DATED: Honolulu, Hawai'i, December 12, 2012.


CARL M. VARADY
Attorney for Sonya Adams and Opt-in Plaintiffs